

Title: CALIFORNIA CODE OF REGULATIONS

TITLE 16 PROFESSIONAL AND VOCATIONAL REGULATIONS

DIVISION 15 BOARD OF OPTOMETRY

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ARTICLE 1 GENERAL PROVISIONS

§1500. LOCATION OF OFFICES

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3026, Business and Professions Code.

History

1. Amendment filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9.)
2. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1501. TENSES, GENDER, AND NUMBER

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3025, Business and Professions Code.

History

1. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1501.1. DEFINITIONS

For the purpose of the rules and regulations contained in this chapter, the following definitions shall apply:

- (a) The term "Board" means State Board of Optometry.
- (b) The term "code" means, unless otherwise designated, Business and Professions Code.
- (c) The term "office," as defined in Section 3077 of the code, means any office or other place for the practice of optometry.

Authority cited: Sections 3025, 3025.5, and 3077, Business and Professions Code. Reference: Section 3077, Business and Professions Code.

History

1. New section filed 1-31-64; effective thirtieth day thereafter (Register 64, No. 3).
2. Amendment of subsection (c) filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9.)

§1502. DELEGATION OF CERTAIN FUNCTIONS

The power and discretion conferred by law upon the Board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the business-like dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer.

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3027, Business and Professions Code.

History

1. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).
2. Amendment filed 3-15-94; operative 4-14-94 (Register 94, No. 11).

ARTICLE 2 LOCATION OF PRACTICE

§1505. NOTIFICATION OF INTENTION TO ENGAGE IN PRACTICE

(a) The notification of intention to engage in the practice of optometry which is required by Section 3070 of the code shall be addressed to the Board at its office in Sacramento.

(b) Such notification of intention to engage in the practice of optometry includes notifying the Board of intention to accept employment to practice optometry, the name or names of the optometrist or optometrists, or those who by law may employ an optometrist and the address or addresses of the office or offices at which the licensee will be employed.

(c) Such notification of intention to engage in the practice of optometry includes notifying the Board prior to the establishment of any office or offices to practice optometry of the intention to establish such office or offices and the location or locations to be occupied.

Authority cited: Section 3025, Business and Professions Code. Reference: Sections 3070 and 3077, Business and Professions Code.

History

1. Amendment filed 1-31-64; effective thirtieth day thereafter (Register 64, No. 3).
2. Amendment filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9).
3. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

§1506. CERTIFICATES – POSTING

(a) A certificate of registration, i.e., original wall certificate, is an original certificate of registration and license to practice optometry in California granted by the Board to a natural person who has qualified for the same pursuant to the provisions of Chapter 7 of Division 2 of the Code and it may not be assigned or transferred to another person but shall; notwithstanding whether it is replaced by a certification of the issuance of a certificate of registration, i.e., duplicate wall certificate, as provided by subdivision (b) of this section; remain valid and in force unless it is revoked or suspended and not reinstated or it is expired and not renewed or restored.

(b) A certification of the issuance of a certificate of registration is a certification by the Board that the person named thereon to whom it is conveyed is the holder of the certificate of registration designated thereon and shall be issued to such person as prima facie evidence that such person is the holder of such certificate of registration designated thereon and to replace the same or a previous certification of the issuance of a certificate of registration issued to the same person, provided that:

(1) There is furnished proof satisfactory to the Board of a change in name authorized by law of such person or of the loss of, destruction of or severe damage to such certificate of registration or previous certification of the issuance of such certificate of registration.

(2) Such certificate of registration or previous certification of the issuance of such certificate of registration is, unless it is lost or destroyed, surrendered to the Board.

(3) There is payment of the fee prescribed by Section 3152(h) of the code for the issuance of a certification of registration.

(c) The principal place of practice of an optometrist shall be deemed by the Board to be that office, other than his/her branch office or offices, wherein he/she owns, singly or jointly with any others, the practice of optometry, provided however:

(1) Where the optometrist does not own a practice, singly or jointly with any others, but practices optometry in a single office as an employee, that office shall be his/her principal place of practice.

(2) Where the optometrist does not own a practice, singly or jointly with any others, but practices optometry in two or more offices as an employee, he/she shall inform the Board in writing as to which of such offices shall be deemed his/her principal place of practice.

(d) When the optometrist owns, singly or jointly with any others, the practice of optometry in more than one office or is employed to practice optometry in more than one office and it is infeasible to have his/her certificate posted in more than one of such offices, he/she shall have a numbered statement of licensure issued by the Board and signed by its executive officer conspicuously posted in each of such additional offices wherein he/she owns, singly or jointly with any others, the practice of optometry or wherein he/she practices optometry as an employee, provided that:

(1) He/she shall first send a written request to the Board for such statement of licensure or statements of licensure and shall include in such request the exact location of the office wherein it or each of them is to be posted in lieu of his/her certificate.

(2) He/she shall not have a statement of licensure posted in any office other than as authorized by such statement of licensure.

(3) A statement of licensure shall not be altered or assigned.

(4) A statement of licensure is to be immediately surrendered to the Board by the optometrist to whom it is issued upon the occurrence of any of the following:

(A) His/her certificate becomes expired, is suspended or is revoked.

(B) He/she terminates ownership of the practice or his/her employment to practice optometry in the office wherein he/she is authorized by such statement of licensure to post the same in lieu of his/her certificate.

(C) The office wherein he/she is authorized by such statement of licensure to post the same becomes the only office wherein he/she has ownership of the practice and/or practices optometry as an employee.

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3075, Business and Professions Code.

History

1. Amendment filed 6-28-67; effective thirtieth day thereafter (Register 67, No. 26).
2. Amendment filed 8-7-69; effective thirtieth day thereafter (Register 69, No. 32).
3. Amendment filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9.)
4. Amendment filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1507. EXTENDED OPTOMETRIC CLINICAL FACILITIES

(a) As used in this regulation "extended optometric clinical facility" means and includes any clinical facility employed by an approved optometry school for instruction in optometry which exists outside or beyond the walls, boundaries, or

precincts of the primary campus of the approved optometry school, and in which optometric services are rendered.

(b) It is the intent of this section to provide a procedure whereby an extended optometric clinical facility may be identified, qualified and approved by the Board as an adjunct to, and an extension of, the clinical department of an approved optometry school.

(c) Optometric services provided by optometry students at undergraduate and graduate levels in an extended optometric clinical facility shall constitute a part of the optometric education program .

(d) Approved optometry schools shall register extended optometric clinical facilities with the Board. Such registration shall be accompanied with information supplied by the optometry school pertaining to faculty supervision, scope of practice to be rendered, name and location of the facility, date operation will commence, discipline of which such instruction is a part, and a brief description of the equipment and facilities available. The foregoing information shall be supplemented with a copy of the agreement between the approved optometry school or parent university and the affiliated institution establishing the relationship. Any change in the information initially provided to the Board shall be communicated to the Board.

(e) Mobile optometric facilities may only function as a part of a school teaching program as approved by the Board.

(f) The itinerary of the mobile optometric unit must be submitted to the Board with 30 days prior notice.

Authority cited: Sections 3023.1, 3025 and 3077, Business and Professions Code. Reference: Sections 3023, 3023.1 and 3077, Business and Professions Code.

History

1. New section filed 5-11-73; effective thirtieth day thereafter (Register 73, No. 19).
2. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

§1507.1. MOBILE OPTOMETRIC FACILITIES

Authority cited: Section 3025, Business and Professions Code. Reference: Sections 3023, 3023.1 and 3077, Business and Professions Code.

History

1. New section filed 5-11-73; effective thirtieth day thereafter (Register 73, No. 19).
2. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

ARTICLE 3 PROFESSIONAL RULES

§1510. PROFESSIONAL INEFFICIENCY

Inefficiency in the profession is indicated by the failure to use, or the lack of proficiency in the use of the ophthalmoscope, the retinoscope, the ophthalmometer (or keratometer), tonometer, biomicroscope, any one of the modern refracting instruments such as the phoropter, refractor, etc., or the phorometer-trial frame containing phoria and duction measuring elements or a multicelled trial frame, trial lenses, and prisms, in the conduct of an ocular examination; the failure to make and keep an accurate record of findings; lack of familiarity with, or neglect to use, a tangent screen or perimeter or campimeter; and the failure to make a careful record of the findings when the need of the information these instruments afford is definitely indicated.

Authority cited: Sections 3025 and 3025.5, Business and Professions Code. Reference: Sections 3025.5 and 3090, Business and Professions Code.

History

1. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

§1511. USE OF PREFIX OR SUFFIX

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3098, Business and Professions Code.

History

1. Amendment filed 1-31-64; effective thirtieth day thereafter (Register 64, No. 3).
2. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1512. REPRESENTATION OF EXCEPTIONAL PROFICIENCY

(a) No title, subtitle, or phrase shall be used which conveys the impression of exceptional proficiency in any phase of optometric practice except as provided in Section 651(h) of the Code.

(b) There shall be no statements in advertising tending to imply that the use of some particular system or procedure in the examination of the eyes and their functions, is superior to or safer than that taught in accredited schools and constituting the legally defined and accepted practice of optometry.

Authority cited: Sections 651 and 3025, Business and Professions Code. Reference: Section 651, Business and Professions Code.

History

1. Amendment filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1513. REGISTERED NAME ONLY

All signs, cards, stationery or other advertising must clearly and prominently identify the individual optometrist or optometrists.

Authority cited: Sections 651 and 3025, Business and Professions Code. Reference: Sections 651 and 3125, Business and Professions Code.

History

1. Amendment filed 1-31-64; effective thirtieth day thereafter (Register 64, No. 3).
2. Amendment filed 4-3-75; effective thirtieth day thereafter (Register 75, No. 14).
3. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

§1514. RENTING SPACE FROM AND PRACTICING ON PREMISES OF COMMERCIAL (MERCANTILE) CONCERN

Where an optometrist rents or leases space from and practices optometry on the premises of a commercial (mercantile) concern, all of the following conditions shall be met:

- (a) The practice shall be owned by the optometrist and in every phase be under his/her exclusive control. The patient

records shall be the sole property of the optometrist and free from any involvement with a person unlicensed to practice optometry. The optometrist shall make every effort to provide for emergency referrals.

(b) The rented space shall be definite and apart from space occupied by other occupants of the premises.

(c) All signs, advertising, and display shall likewise be separate and distinct from that of the other occupants and have the optometrist's name and the word "optometrist" prominently displayed in connection therewith.

(d) There shall be no legends as "Optical Department," "Optometrical Department," "Optical Shoppe," or others of similar import, displayed on any part of the premises or in any advertising.

(e) There shall be no linking of the optometrist's name, or practice, in advertising or in any other manner with that of the commercial (mercantile) concern from whom he/she is leasing space.

Authority cited: Sections 3025 and 3025.5, Business and Professions Code. Reference: Sections 651 and 3025, Business and Professions Code.

History

1. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

§1515. ADVERTISING OF SERVICES

Authority cited: Section 651, Business and Professions Code. Reference: Sections 651, 651.3, 3129 and 17500, Business and Professions Code.

History

1. Amendment filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9.)

2. New subsection (c) filed 2-15-80; effective thirtieth day thereafter (Register 80, No. 7).

3. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

4. Change without regulatory effect repealing section filed 3-13-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 11).

§1516. CRITERIA FOR REHABILITATION

(a) When considering the denial of a certificate of registration under Section 480 of the Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a certificate of registration, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a certificate of registration on the grounds that the registrant has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
 - (2) Total criminal record.
 - (3) The time that has elapsed since commission of the act(s) or offense(s).
 - (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
 - (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
 - (6) Evidence, if any, of rehabilitation submitted by the licensee.
- (c) When considering a petition for reinstatement of a certificate of registration under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection (b).

Authority cited: Sections 3023, 3023.1 and 3025, Business and Professions Code. Reference: Sections 475, 480, 481 and 482, Business and Professions Code; and Section 11522, Government Code.

History

1. New section filed 5-11-73; effective thirtieth day thereafter (Register 73, No. 19).
2. Amendment filed 2-4-75 as an emergency; effective upon filing (Register 75, No. 6).
3. Certificate of Compliance filed 3-28-75 (Register 75, No. 13).
4. Amendment filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1517. SUBSTANTIAL RELATIONSHIP CRITERIA

For the purpose of denial, suspension, or revocation of the certificate of registration of an optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions, and duties of an optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist to perform the functions authorized by his/her certificate of registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

- (a) Any violation of the provisions of Article 2, Chapter 1, Division 2 of the Code (Sections 525 et seq. of the Code).
- (b) Any violation of the provisions of Article 6, Chapter 1, Division 2 of the Code (Sections 650 et. seq. of the Code) except Sections 651.4 and 654.
- (c) Any violation of the provisions of Chapter 5.4, Division 2 of the Code (Sections 2540 et seq. of the Code).
- (d) Any violation of the provisions of Chapter 7, Division 2 of the Code (Sections 3000 et seq. of the Code).

Authority cited: Section 3025, Business and Professions Code. Reference: Sections 475, 480, 481 and 482, Business and Professions Code.

History

1. New section filed 2-4-75 as an emergency; effective upon filing (Register 75, No. 6).
2. Certificate of Compliance filed 3-28-75 (Register 75, No. 13).
3. Amendment filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1518. FICTITIOUS OR GROUP NAMES

(a) Applications for a permit to use a fictitious or group name shall be submitted on a form provided by the Board containing such information as is required therein, and accompanied by the initial permit fee of \$10.00.

(b) No permit shall be issued authorizing the use of a name which is deceptive or inimical to enabling a rational choice for the consumer public and which does not contain at least one of the following designations: "optometry" or "optometric." In considering whether a name is deceptive or inimical to enabling a rational choice for the consumer public the Board may consider, among other things, whether it has a tendency to deceive the public or is so similar to a name previously authorized in the same geographical area as to be deceptive or misleading.

(c) When an optometrist or optometrists acquire the ownership in an optometric practice of another optometrist or other optometrists, the successor optometrist or optometrists may use in connection with such practice the name or names of the predecessor optometrist or optometrists for a reasonable time not in excess of two years thereafter providing:

(1) The acquisition of the ownership in the practice of the predecessor optometrist or optometrists includes permission to use his/her or their names.

(2) The acquisition of the ownership includes the active patient records and prescription files of the practice.

(3) In any signs, professional cards, envelopes, billheads, letterheads, or advertising of any nature, the name or names of the successor optometrist or optometrists shall appear first and be followed by the term "succeeding," "successor to," or "formerly" and then the name or names of the predecessor optometrist or optometrists which shall not appear in letters larger than the letters in the name or names of the successor optometrist or optometrists.

Authority cited: Section 3125, Business and Professions Code. Reference: Sections 3125 and 3163, Business and Professions Code.

History

1. New section filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9.)

2. Amendment of subsection (b) and repealer of subsections (c) and (d) filed 2- 15-80; effective thirtieth day thereafter (Register 80, No. 7).

3. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

§1519. OPHTHALMIC DEVICE STANDARDS

The minimum quality standards for prescription ophthalmic devices sold, dispensed or furnished by licensed optometrists shall be the 1972 standards of the American National Standards Institute Z80.1 and Z80.2.

Authority cited: Section 2541.3, Business and Professions Code. Reference: Section 2541.3, Business and Professions Code.

History

1. New section filed 11-17-76; effective thirtieth day thereafter (Register 76, No. 47).

ARTICLE 4 SANITARY AND/OR HYGIENIC FACILITIES – STANDARDS GOVERNING SERVICES

§1520. HAND WASHING FACILITY

(a) Each office shall be provided with a hand washing facility which shall be entirely within the confines of the premises or space occupied by such office and not elsewhere and which shall be for the exclusive use of the optometrist or optometrists practicing in such office and his/her or their assistants and patients and shall not be used by other persons.

- (b) For the purpose of this section, a hand washing facility is a facility affording, at minimum, the following:
- (1) A wash basin or sink with hot and cold running water which complies with Title 24, California Administrative Code, Part 5 (commencing with Section P100).
 - (2) Liquid or powdered hand washing detergent in a dispensing device.
 - (3) Single service sanitary towels in a dispensing device or a sanitary hot-air blower hand drying apparatus.
- (c) Hand washing facilities shall be maintained in a condition of cleanliness and good repair.
- (d) The optometrist and staff shall maintain at all times a high standard of cleanliness and personal hygiene in order to ensure proper patient care.

Authority cited: Section 3025.5, Business and Professions Code. Reference: Section 3025.5, Business and Professions Code.

History

1. New Article 4 (Section 1520) filed 131-63; effective thirtieth day thereafter (Register 64, No. 3).
2. Amendment of subsection (d) filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9.)
3. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

ARTICLE 5 APPLICATION FOR LICENSURE EXAMINATION

§1523. LICENSURE EXAMINATION REQUIREMENTS

- (a)(1) Application for licensure as an optometrist shall be made on a form prescribed by the Board (Form 39A-1, Rev. 3-96), which is hereby incorporated by reference, and shall show that the applicant is at least 18 years of age.
- (2) Application for licensure by an out of state licensed optometrist as defined in Business and Professions Code Section 3057, shall be made on forms prescribed by the Board (Form OLA-2, Rev. 11/07 and Form LBC-4, rev. 2/07), which are hereby incorporated by reference, and shall show that the applicant is at least 18 years of age.
- (b) An application shall be accompanied by the following:
- (1) The fees fixed by the Board pursuant to Section 1524 in this Article.
 - (2) Satisfactory evidence of graduation from an optometry school approved by the Board.
 - (3) One classifiable set of fingerprints on a form provided by the Board.
- (c) Completed applications for examination shall be filed with the Board not later than 30 days prior to the date set for the beginning of the examination for which application is made.
- (d) An incomplete application shall be returned to the applicant together with a statement setting forth the reason(s) for returning the application and indicating the amount of money, if any, which will be refunded.
- (e) Permission to take the Patient Management and California Laws and Regulations examination sections shall be granted to those applicants who have paid the necessary fees and who meet the educational qualifications to take the examination.
- (f) Once the applicant has passed the examination, an official notice will be sent with instructions for submission of the licensure fee. Licensure shall be contingent on the applicant's passing the clinical demonstration portion of the National Board of Examiners in Optometry examination as provided in Section 1531 in this Article.
- (g) Admission into the examination shall not be construed to limit the Board's authority to seek from an applicant such other information as may be deemed necessary to evaluate the applicant's qualifications for licensure.

Authority cited: Sections 3025, 3044, 3045 and 3057, Business and Professions Code. Reference: Sections 3044, 3045 and 3057, Business and Professions Code.

History

1. New article 5 (sections 1523-1524) and section filed 5-12-97; operative 6-11-97 (Register 97, No. 20). For prior history, see Register 83, No. 44.
2. Amendment of section heading, redesignation of subsection (a) as new subsection (a)(1) and new subsection (a)(2), amendment of subsections (b)-(b)(1) and amendment of Note filed 11-7-2007; operative 11-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 45).

§1524. FEES

The following fees are established:

- (a) Application fee for certificate of registration as an optometrist by examination...\$275
- (b) Biennial renewal of a certificate of registration as an optometrist.....\$425
- (c) Delinquency fee for failing to renew a certificate of registration timely.....\$50
- (d) Application fee for a branch office license.....\$75
- (e) Annual renewal of a branch office license.....\$75
- (f) Penalty fee for failure to renew a branch office license timely.....\$25
- (g) Issuance fee for a certificate of registration or upon change of name of person
holding a certificate of registration.....\$25
- (h) Application fee for a fictitious name permit.....\$50
- (i) Annual renewal of a fictitious name permit.....\$50
- (1) Delinquency fee for failure to renew a fictitious name permit timely.....\$25
- (j) Application fee for a statement of licensure.....\$40
- (1) Biennial renewal of a statement of licensure.....\$40
- (2) Penalty fee for failure to renew a statement of licensure timely.....\$20
- (k) Application fee for a certificate to use therapeutic pharmaceutical agents.....\$25
- (l) Application fee for approval of a continuing education course.....\$50
- (m) Application fee for a certificate to treat primary open angle glaucoma.....\$35
- (n) Application fee for a certificate to perform lacrimal irrigation and dilation.....\$25

Authority cited: Sections 3025, 3044, 3075, 3152 and 3152.5, Business and Professions Code. Reference: Sections 3075, 3078, 3152 and 3152.5, Business and Professions Code.

History

1. New section filed 5-12-97; operative 6-11-97 (Register 97, No. 20).
2. Amendment of subsections (b)-(e) and (h)-(i), new subsections (i)(1), (j)(1)-(2) and (l)-(n) and amendment of Note filed 4-28-2009; operative 4-28-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 18).

ARTICLE 5.1 FINGERPRINT REQUIREMENTS

§ 1525. OPTOMETRIC LICENSE RENEWAL

(a) A license issued pursuant to Business and Professions Code Section 3055 expires at midnight on the last day of the licensee's birth month following its original issuance and thereafter at midnight on the last day of the licensee's birth month every two years if not renewed.

(b) A renewal for licensure as an optometrist shall be made on a form prescribed by the Board (Form R1POPT, Rev. 3-10), which is hereby incorporated by reference, and shall be accompanied by the fee specified in Section 1524 and filed with the Board at its office in Sacramento.

(c) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.

(d) Failure of a licensee to comply with subdivision (b) is grounds for disciplinary action by the board against the license.

Authority cited: Sections 3010.1, 3010.5, 3024 and 3025, Business and Professions Code. Reference: Sections 3055, 3056, 3059 and 3110, Business and Professions Code; and Section 11105, Penal Code.

History

1. New article 5.1 (sections 1525-1525.2) and section filed 6-21-2010; operative 6-21-2010 pursuant to Government Code section 11343.4 (Register 2010, No. 26).

§ 1525.1. FINGERPRINT REQUIREMENTS

(a) As a condition of renewal for a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, such licensee shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal criminal offender record information search conducted through the Department of Justice.

(1) The licensee shall pay any costs for furnishing the fingerprints to the Department of Justice and conducting the searches.

(2) A licensee shall certify when applying for renewal whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(3) This requirement is waived if the license is renewed in an inactive status, or if the licensee is actively serving in the military outside the country. The board shall not return a license to active status until the licensee has complied with subsection (a).

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been convicted of any violation of the law in this or any other state and, the United States, and its territories, military court, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances.

(c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(d) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(e) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

(f) As a condition of petitioning the board for reinstatement of a revoked or surrendered license or registration, an applicant shall comply with subsection (a).

Authority cited: Sections 144, 3010.1, 3010.5, 3024 and 3025, Business and Professions Code. Reference: Section 3110, Business and Professions Code; and Section 11105, Penal Code.

History

1. New section filed 6-21-2010; operative 6-21-2010 pursuant to Government Code section 11343.4 (Register 2010, No. 26).

§ 1525.2. RESPONSE TO BOARD INQUIRY

If the board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information. Failure to comply with the requirements of this section is grounds for discipline by the board.

Authority cited: Sections 3010.1, 3010.5, 3024 and 3025, Business and Professions Code. Reference: Sections 144, 3055, 3056, 3059 and 3110, Business and Professions Code; and Section 11105, Penal Code.

History

1. New section filed 6-21-2010; operative 6-21-2010 pursuant to Government Code section 11343.4 (Register 2010, No. 26).

ARTICLE 6 EXAMINATIONS

§1526. PROOF OF CARDIOPULMONARY RESUSCIATION CERTIFICATION (CPR)

Authority cited: Sections 3025 and 3053, Business and Professions Code. Reference: Sections 3023.1, 3053 and 3059, Business and Professions Code.

History

1. New section filed 2-21-89; operative 3-23-89 (Register 89, No. 10).
2. Repealer filed 5-8-96; operative 6-7-96 (Register 96, No. 19).

§1530. EXAMINATION RESULTS

Authority cited: Sections 3025, 3053 and 3054, Business and Professions Code. Reference: Sections 3053 and 3054, Business and Professions Code.

History

1. New Article 6 (Sections 1530-1535) filed 5-4-67 as an emergency; effective upon filing (Register 67, No. 18).
2. Article 6 (Sections 1530 through 1535) refiled 6-28-67; effective thirtieth day thereafter (Register 67, No. 26).
3. Amendment of subsections (d) and (e) filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).
4. Amendment filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).
5. Repealer and new section filed 5-8-96; operative 6-7-96 (Register 96, No. 19).

6. Change without regulatory effect repealing section filed 3-14-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 11).

§1530.1. QUALIFICATIONS OF FOREIGN GRADUATES

Applicants who meet the requirements of Section 3057.5 of the Code shall be admitted to the examination upon furnishing satisfactory evidence that the course of instruction completed is reasonably equivalent, as determined by the Board, to the course of instruction given by a school accredited by the Board; provided, however, that an applicant who is unable to furnish satisfactory evidence of equivalency may take those courses or subjects, in an accredited school or in another program of instruction acceptable to the Board, which would remedy areas of deficiency.

Authority cited: Sections 3023.1 and 3025, Business and Professions Code. Reference: Sections 3023.1, 3025, 3047, 3050 and 3057.5, Business and Professions Code.

History

1. New section filed 7-26-72 as an emergency; effective upon filing (Register 72, No. 31).
2. Certificate of Compliance filed 11-22-72 (Register 72, No. 48).
3. Repealer of subsection (d) filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).
4. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).
5. Amendment filed 5-6-86; effective thirtieth day thereafter (Register 86, No. 19).

§1531. LICENSURE EXAMINATION

The licensure examination is composed of:

Section I - Written cognitive examination approved by the board and developed by the board or the National Board of Examiners in Optometry (NBEO) Basic Science and Clinical Science.

Section II - Patient Care Examination developed by the board or the Patient Care Examination developed by the National Board of Examiners in Optometry (NBEO), if the NBEO Patient Care Examination has been passed on or after January 2000.

Section III - California Laws and Regulations Examination developed and administered by the Board or its contractor.

Authority cited: Sections 3025, 3041.2 and 3053, Business and Professions Code. Reference: Sections 3041.2 and 3053, Business and Professions Code.

History

1. Amendment filed 11-22-77; effective thirtieth day thereafter (Register 77, No. 48).
2. Amendment filed 5-20-83; effective upon filing pursuant to GovernmentCode Section 11346.2(d) (Register 83, No. 21).
3. Amendment filed 8-9-84; effective upon filing pursuant to Government CodeSection 11346.2(d) (Register 84, No. 32).
4. Amendment of subsection (d) filed 2-21-89; operative 3-23-89 (Register 89, No. 10).
5. Amendment of section heading, section and Note filed 5-8-96; operative 6-7-96 (Register 96, No. 19).
6. Amendment of section and Note filed 6-24-97; operative 7-24-97 (Register97, No. 26).
7. Amendment filed 1-28-2002; operative 1-28-2002 pursuant to GovernmentCode section 11343.4 (Register 2002, No. 5).

§1532. RE-EXAMINATION

(a) Each applicant must achieve passing grades in all sections of the board's examination before being registered and granted a certificate of registration.

(b) An applicant who has failed to pass either the Patient Management or California Laws and Regulations examination sections after a period of five consecutive calendar years from the date of the first examination must retake both the Patient Management and California Laws and Regulations examination sections.

Authority cited: Sections 3023.1 and 3025, Business and Professions Code. Reference: Section 3054, Business and Professions Code.

History

1. Amendment filed 4-3-75; effective thirtieth day thereafter (Register 75, No. 14).
2. Editorial correction (Register 75, No. 30).
3. Amendment of subsection (b) filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).
4. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).
5. Amendment of subsections (a) and (b) filed 5-8-96; operative 6-7-96 (Register 96, No. 19).
6. Amendment filed 6-24-97; operative 7-24-97 (Register 97, No. 26).

§1533. RE-SCORING OF EXAMINATION PAPERS

Any person who has failed any section of the board examination may request that the papers he/she wrote in taking such examination be re-scored by the board. The request shall be submitted in writing and mailed to the principal office of the board. The request shall be postmarked no later than 75 days after the date the examination results are mailed.

Authority cited: Sections 3023.1 and 3025, Business and Professions Code. Reference: Section 3054, Business and Professions Code.

History

1. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).
2. Amendment filed 2-21-89; operative 3-23-89 (Register 89, No. 10).
3. Amendment of first paragraph and subsections (a), (b), (d), (f) and (g) filed 5-8-96; operative 6-7-96 (Register 96, No. 19).
4. Amendment of section heading and first paragraph and repealer of subsections (a)-(i) filed 7-5-2001; operative 8-4-2001 (Register 2001, No. 27).

§1533.1. EXAMINATION APPEALS

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3025, Business and Professions Code.

History

1. New section filed 10-11-89; operative 11-10-89 (Register 89, No. 41).
2. Repealer filed 4-25-2001; operative 5-25-2001 (Register 2001, No. 17).

§1534. NATIONAL BOARD OF EXAMINERS IN OPTOMETRY (NBO)

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3053, Business and Professions Code.

History

1. Amendment of subsection (c) filed 1-24-80; effective thirtieth day thereafter (Register 80, No. 4).
2. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1535. EXAMINATION REQUIREMENTS

Authority cited: Sections 3025, 3041.2 and 3053, Business and Professions Code. Reference: Sections 3041.2 and 3053, Business and Professions Code.

History

1. Amendment filed 8-7-69; effective thirtieth day thereafter (Register 69, No. 32).
2. Amendment filed 11-22-77; effective thirtieth day thereafter (Register 77, No. 48).
3. Amendment filed 4-20-81; effective thirtieth day thereafter (Register 81, No. 17).
4. Amendment filed 5-20-83; effective upon filing pursuant to GovernmentCode Section 11346.2(d) (Register 83, No. 21).
5. Amendment filed 2-21-89; operative 3-23-89 (Register 89, No. 10).
6. Editorial correction of printing error of HISTORY No. 5 filing date (Register 89, No. 20).
7. Amendment of section heading and former subsection (a), and repealer of subsection designations and former section (b) filed 5-8-96; operative 6-7-96 (Register 96, No. 19).
8. Repealer filed 6-24-97; operative 7-24-97 (Register 97, No. 26).

ARTICLE 6.5 CONTINUING OPTOMETRIC EDUCATION

§1536. CONTINUING OPTOMETRIC EDUCATION; PURPOSE AND REQUIREMENTS

(a) Except as otherwise provided in Section 1536(b), each licensee shall complete 40 hours of formal continuing optometric education course work within the two years immediately preceding the renewal deadline. Such course work shall be subject to Board approval. No more than eight hours of course work shall be in the area of patient care management. Courses dealing with business management shall not be approved.

(b) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Business and Professions Code Section 3041.3 shall complete a total of 50 hours of continuing education every two years in order to renew his or her certificate. Thirty-five of the required 50 hours of continuing education shall be on the diagnosis, treatment and management of ocular disease and consistent with Business and Professions Code section 3059, subdivision (f).

(c) Up to 20 hours of required biennial course work may be accomplished by using any or all of the following alternative methods:

- (1) Documented and accredited self study through correspondence or an electronic medium.
- (2) Teaching of continuing optometric education courses if attendance at such course would also qualify for such credit, providing none are duplicate courses within the two-year period.
- (3) Writing articles that have been published in optometric journals, magazines or newspapers, pertaining to the practice of optometry (or in other scientific, learned, refereed journals on topics pertinent to optometry), providing no articles are duplicates. One hour of credit will be granted for each full page of printing or the equivalent thereof.

(d) A credit hour is defined as one classroom hour, usually a 50-minute period, but no less than that.

(e) Continuing optometric education programs which are approved as meeting the required standards of the Board include the following:

(1) Continuing optometric education offerings officially sponsored or accredited by any accredited school or college of optometry.

(2) Continuing optometric education offerings of any national or state affiliate of the American Optometric Association, the American Academy of Optometry, or the Optometric Extension Program.

(3) Continuing optometric education offerings approved by the Association of Regulatory Boards of Optometry known as COPE (Council on Optometric Practitioner Education).

(f) Other educational programs approved by the Board as meeting the criteria as set forth in (g) below, after submission of a program, schedule, topical outline of subject matter, and curriculum vitae of all instructors involved, to the Executive Officer of the Board not less than 45 days prior to the date of the program. The Board may, upon application of any licensee and for good cause shown, waive the requirement for submission of advance information and request for prior approval. Nothing herein shall permit the Board to approve of an educational program which has not complied with the criteria set forth in paragraph (g) below.

(g) The criteria for judging and approving education programs by the Board for continuing optometric education credit will be determined on the following basis:

(1) Whether the program is likely to contribute to the advancement of professional skill and knowledge in the practice of optometry.

(2) Whether the speakers, lecturers and others participating in the presentation are recognized by the Board as being qualified in their field.

(3) Whether the proposed course is open to all optometrists licensed in this State.

(4) Whether the provider of any mandatory continuing education course agrees to maintain and furnish to the Board and/or attending licensee such records of course content and attendance as the Board requires, for a period of at least three years from the date of course presentation.

(h) Proof of attendance at continuing education programs shall be provided in a form and manner specified in writing by the Board and distributed to all licensed optometrists in this state. Certification of attendance at continuing education courses shall be submitted by the licensee to the Executive Officer or his/her designee upon request, and shall contain the following minimal information:

(1) The name of the sponsoring organization.

(2) The name, signature, practice address, and license number of the attending licensee.

(3) The subject or title of the educational program.

(4) The number of hours in actual attendance.

(5) The date of the educational program.

(6) The location of the educational program.

(7) The name(s) of the course instructor(s).

(8) Such other evidence of course content or attendance as the Board may deem necessary.

Use of a Board-specified certificate form is recommended for any educational programs approved by the Board pursuant to the above. Such forms will be furnished by the Executive Officer on request.

(i) The following licensees shall be exempt from the requirements of this section.

(1) Any licensee serving in the regular armed forces of the United States during any part of the 24 months immediately preceding the annual license renewal date.

(2) Those licensees as the Board, in its discretion, determines were unable to attend sufficient hours of continuing optometric education courses due to illness, incapacity, or other unavoidable circumstances.

(3) Any licensee who is renewing an active license for the first time, if he/she graduated less than one year from the date of initial licensure.

(j) The Board may conduct an audit of any licensee's attendance at continuing education programs as a means of verifying compliance with this section.

(k) As a condition of license renewal, all licensees are required to maintain current certification in cardiopulmonary resuscitation (CPR) from the American Red Cross, American Heart Association, or other association approved by the Board. Training required for the CPR certificate shall not be credited toward the requirements of subdivision (a). Exemptions will be made for licensees as the Board, in its discretion, determines were unable to maintain current CPR certification due to physical impairment, illness, incapacity, or other unavoidable circumstances.

Authority cited: Sections 3023.1 and 3059, Business and Professions Code. Reference: Section 3059, Business and Professions Code. Authority cited: Sections 3023.1 and 3059, Business and Professions Code. Reference: Section 3059, Business and Professions Code.

History

1. New section filed 2-21-89; operative 3-23-89 (Register 89, No. 10).
2. Amendment of subsections (a) and (d), new subsection (d)(3), and amendment of subsections (e), (f), (f)(2), (f)(4), (g), (g)(8), (h)(2), (h)(3) and (i), and new subsection (j) and amendment of Note filed 5-8-96; operative 6-7-96 (Register 96, No. 19).
3. Amendment filed 12-22-2004; operative 1-21-2005 (Register 2004, No. 52).

ARTICLE 7 OPTOMETRIC CORPORATIONS

§1540. CITATION OF RULES

Authority cited: Sections 3025 and 3167, Business and Professions Code. Reference: Section 3025, Business and Professions Code.

History

1. New Article 7 (# 1540 through 1550) filed 9-27-71; effective thirtieth day thereafter (Register 71, No. 40).
2. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1541. DEFINITIONS

Authority cited: Section 3167, Business and Professions Code. Reference: Section 13410, Corporations Code.

History

1. Change without regulatory effect repealing Section 1541 (Register 88, No.15).

§1542. PROFESSIONAL RELATIONSHIPS, RESPONSIBILITIES, AND CONDUCT NOT AFFECTED

Authority cited: Section 3167, Business and Professions Code. Reference: Section 13410, Corporations Code.

History

1. Change without regulatory effect repealing Section 1542 (Register 88, No.15).

§1543. OFFICE FOR FILING

Authority cited: Sections 3025 and 3167, Business and Professions Code. Reference: Section 3025, Business and Professions Code.

History

1. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1544. APPLICATION; REVIEW OF REFUSAL TO APPROVE

(a) An applicant corporation shall file with the Board an application for Certificate of Registration on a form furnished by the Board, which shall be signed and verified by an officer of the corporation who is a licensed person and be accompanied by a fee not to exceed two hundred dollars (\$200).

(b) The Board, within a reasonable time after an application for registration is submitted to it, shall either approve the application and issue a Certificate of Registration or refuse to approve the application and notify the applicant corporation of the reasons therefor.

(c) The Board may delegate to its executive officer, or other official or employee of the Board, its authority under Section 3161, Business and Professions Code, to review and approve applications for registration and to issue Certificates of Registration.

(d) Any applicant corporation whose application has been disapproved by the Board may request a hearing pursuant to Government Code Section 11504. The hearing shall be conducted pursuant to the Administrative Procedure Act (Government Code Sections 11502-11528).

(e) No applicant corporation shall hold itself out or engage in nor shall it render any professional services unless and until a Certificate of Registration has been issued.

Authority cited: Section 3167, Business and Professions Code. Reference: Sections 3160-3167, Business and Professions Code; and Section 13401, Corporations Code.

History

1. Amendment of subsections (a) and (c) filed 2-2-79; effective thirtieth day thereafter (Register 79, No. 5).
2. Change without regulatory effect of NOTE (Register 88, No. 15).

§1545. REQUIREMENTS FOR ISSUANCE OF CERTIFICATE OF REGISTRATION

Authority cited: Sections 3025 and 3167, Business and Professions Code. Reference: Section 3025, Business and Professions Code.

History

1. Repealer filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1546. NAME OF CORPORATION

(a) Except as provided in Section 1518, the name of the corporation shall contain and be restricted to:

(1) The name or last name of one or more of the present, prospective, or former shareholders, and

(2) One of the following designations denoting corporate existence: "Optometric Corporation," "Optometry Corporation," "Corporation," "Professional Corporation," "Prof. Corp.," "Corp.," "Incorporated," "Inc.," "Optometric Corp.," "Optometry Corp.," "Professional Optometric Corporation," "Professional Optometry Corporation," "Professional Optometric Corp.," or "Professional Optometry Corp.."

(b) The letters "Opt.D." or "O.D." or the word "optometrist" may be used in the corporate name providing that any person using such designation shall be the holder of a diploma from an accredited school of optometry. Some examples of such usage are: "Doctor John Doe, O.D., Inc." or "Dr. James Smith, O.D. and Dr. John Doe, O.D., Optometric Corporation."

Authority cited: Sections 3025 and 3167, Business and Professions Code. Reference: Sections 3098 and 3163, Business and Professions Code.

History

1. Amendment filed 4-3-75; effective thirtieth day thereafter (Register 75, No. 14).

2. Amendment filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9).

3. Amendment of subsection (a) filed 4-20-81; effective thirtieth day thereafter (Register 81, No. 17).

4. Amendment filed 12-1-83; effective thirtieth day thereafter (Register 83, No. 49).

§1547. SECURITY FOR CLAIMS AGAINST AN OPTOMETRIC CORPORATION

(a) When an optometric corporation provides security by means of insurance for claims against it by its patients, the security shall consist of a policy or policies of insurance insuring the corporation against liability imposed upon it by law for damages arising out of claims against it by its patients arising out of the rendering of, or failure to render, optometric services by the corporation in an amount of each claim of at least \$50,000 multiplied by the number of employed licensed persons rendering such optometric services and an aggregate maximum limit of liability per policy year of at least \$150,000 multiplied by the number of such employees, provided that the maximum coverage shall not be required to exceed \$150,000 for each claim and \$450,000 for all claims during the policy year, and provided further that the deductible portion of such insurance shall not exceed \$5,000 multiplied by the number of such employees.

(b) All shareholders of the corporation shall be jointly and severally liable for all claims established against the corporation by its patients arising out of the rendering of, or failure to render, optometric services up to the minimum amounts specified for insurance under subdivision (a) hereof except during periods of time when the corporation shall provide and maintain insurance for claims against it by its patients arising out of the rendering of, or failure to render, optometric services. Said insurance, when provided, shall meet the minimum standards established in subdivision (a) above.

§1548. SHARES: OWNERSHIP AND TRANSFER

(a) The shares of an optometric corporation may be issued only to a natural person licensed to practice optometry and may be transferred only to a natural person licensed to practice optometry or to the issuing corporation.

(b) Where there are two or more shareholders in an optometric corporation and one of the shareholders:

(1) Dies, or

(2) Becomes a disqualified person as defined in Section 13401(d) of the Corporations Code, for a period exceeding ninety (90) days, his/her shares shall be sold and transferred to a natural person licensed to practice optometry or to the issuing optometric corporation, on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date he/she became a disqualified person.

(c) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he/she again ceases to become a disqualified person.

(d) The restrictions of subdivision (a) and, if appropriate, subdivision (b) of this section shall be set forth in the corporation's bylaws or articles of incorporation.

(e) The income of an optometric corporation attributable to optometric services rendered while a shareholder is a disqualified person shall not in any manner accrue to the benefit of such shareholder or his/her shares.

(f) The share certificates of an optometric corporation shall contain either:

(1) An appropriate legend setting forth the restriction of subdivision (a), and where applicable, the restriction of subdivision (b), or

(2) An appropriate legend stating that ownership and transfer of the shares are restricted and specifically referring to an identified section of the by-laws or articles of incorporation of the corporation wherein the restrictions are set forth.

Authority cited: Section 3167, Business and Professions Code. Reference: Sections 3160, 3164 and 3167, Business and Professions Code; and Sections 13401, 13401.5, 13406 and 13407, Corporations Code.

History

1. Amendment filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).

§1549. CERTIFICATE OF REGISTRATION: CONTINUING VALIDITY: REPORTS

(a) A Certificate of Registration shall continue in effect until it is suspended or revoked. Such certificate may be suspended or revoked for any of the grounds permitted by law.

(b) By May 31 of each year, each optometric corporation shall file with the Board a report on a form provided by the Board reflecting its status as of May 1 and including such information pertaining to its qualifications and compliance with the statutes, rules and regulations of the Board as the Board may require.

(c) Each optometric corporation shall file a special report, on a form provided by the Board, within 30 days of any change of the officers, directors, shareholders, places of practice, by-laws, articles of incorporation, corporate name.

(d) Each annual report filed hereunder shall be accompanied by a filing fee not to exceed \$50.00.

(e) Each special report filed hereunder shall be accompanied by a filing fee not to exceed \$15.00.

Authority cited: Section 3167, Business and Professions Code. Reference: Sections 3160-3167, Business and Professions Code; and Section 13401, Corporations Code.

History

1. Amendment of subsection (c) filed 3-3-78; effective thirtieth day thereafter (Register 78, No. 9.)

2. Amendment of subsections (d) and (e) filed 2-2-79; effective thirtieth day thereafter (Register 79, No. 5).

3. Change without regulatory effect of NOTE (Register 88, No. 15).

§1550. BRANCH OFFICES

An optometric corporation is subject to the provisions of Section 3077 of the Code. When any optometric corporation duly registered hereunder desires to have a branch office within the meaning of that code section, it shall, prior to the opening of any branch office, make application there for to the Board and receive permission in writing from the Board to have such branch office.

ARTICLE 8 TOPICAL PHARMACEUTICAL AGENTS

§1560. DEFINITIONS

Authority cited: Sections 3025 and 3041, Business and Professions Code. Reference: Section 3041, Business and Professions Code.

History

1. New Article 8 (Sections 1560-1563) filed 11-22-77; effective thirtieth day thereafter (Register 77, No. 48).
2. Amendment filed 10-25-83; effective thirtieth day thereafter (Register 83, No. 44).
3. New subsection (a)(3)(d) filed 6-20-96; operative 7-20-96 (Register 96, No. 25).
4. Repealer filed 4-6-2001; operative 5-6-2001 (Register 2001, No. 14).

§1561. TOPICAL PHARMACEUTICAL AGENTS USAGE – PURPOSE AND REQUIREMENTS

(a) The purpose of this article is to implement Business and Professions Code Section 3041.2, as added to said code by chapter 418 of the 1976 statutes. Only those optometrists meeting the requirements of this article may use topical pharmaceutical agents in the examination of human eyes.

(b) In order to use topical pharmaceutical agents in the examination of human eyes, an optometrist must:

(1) complete a course in pharmacology approved by the Board or have equivalent experience satisfactory to the Board; and provide evidence of taking and passing either

(2) the NBEO "Ocular Pharmacology" examination (also known as Section 9); or

(3) both the Basic and Clinical Science sections of the NBEO examination as it was constituted beginning in April 1987; or

(4) a pharmacology examination equivalent to (2) or (3) above and administered by an accredited school or college of optometry; or

(5) a pharmacology examination equivalent to (2) or (3) above and administered by the Board.

(c) The Board will issue a certification to optometrists fulfilling the requirements of subsection (b) authorizing them to use topical pharmaceutical agents.

Authority cited: Sections 3025, 3041.2 and 3053, Business and Professions Code. Reference: Section 3041.2, Business and Professions Code.

History

1. Amendment filed 5-20-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 21).
2. Amendment of subsection (b) filed 5-8-89; operative 6-7-89 (Register 89, No. 27).

§1562. PHARMACOLOGY COURSES

(a) In order to be approved by the Board, a course in pharmacology must include instruction in general pharmacology, ocular pharmacology, and in ocular pharmacology applied to relevant clinical procedures. The course must be at least 55 hours in length and be subdivided as follows:

General Pharmacology..... 15 hours
Ocular Pharmacology..... 20 hours
Clinical Laboratory (ocular pharmacology applied to
relevant clinical procedures)..... 20 hours

(b) Approval by the Board shall be required of all pharmacology course instructors.

§1563. PHARMACOLOGY EXAMINATION

(a) The pharmacology course examination shall cover coursework in general pharmacology, ocular pharmacology, and ocular pharmacology with relevant clinical procedures and shall be given in conjunction with the annual optometrist licensure examination or when otherwise designated by the Board.

(b) The examination fee shall not exceed thirty-five dollars (\$35).

(c) The procedure specified in Section 1533 will be used for requests to inspect examination papers or to appeal examination scores.

Authority cited: Section 3153, Business and Professions Code. Reference: Sections 3041.1 and 3041.2, Business and Professions Code; Sections 1560, 1561 and 1562, California Administrative Code.

History

1. Amendment of subsection (b) filed 2-2-79; effective thirtieth day thereafter (Register 79, No. 5).

ARTICLE 9 APPLICATION PROCESSING TIMELINES

§1564. REVIEW OF OPTOMETRIST APPLICATIONS; PROCESSING TIME

(a) The Board shall inform in writing an applicant for licensure as an optometrist within 45 days of receipt of the application whether the application is complete and accepted for filing or is deficient and what specific information is required.

(b) The Board shall inform in writing an applicant for licensure as an optometrist within 120 days after completion of the application, of its decision whether the applicant meets the requirements for licensure. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant (This period may be extended by that time necessary for retaking or rescheduling an examination or if the applicant is delayed in obtaining or completing any required professional experience or clinical training.)

(c) The minimum, median and maximum processing times for an application for licensure as an optometrist from the time of receipt of the initial application until the Board makes a final decision on the application are:

(1) Minimum -1 day

(2) Median -30 days

(3) Maximum -120 days

(These processing times apply to those applicants who take and pass the first available licensing examination.)

Authority cited: Section 3025, Business and Professions Code; and Section 15376, Government Code. Reference: Section 15376, Government Code.

History

1. New Article 9 (Sections 1564 and 1564.1) filed 8-9-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 32).

§1564.1. REVIEW OF FICTITIOUS NAME PERMIT APPLICATIONS; PROCESSING TIME

(a) The Board shall in writing inform an applicant for a permit for a fictitious name within 45 days from receipt of the application whether the application is complete and accepted for filing or is deficient and what specific information is required.

(b) The Board shall inform in writing an applicant for a permit for a fictitious name within 120 days after completion of the application, of its decision whether the applicant meets the requirements for a fictitious name permit. "Completion of the application" means that a completed application form together with all required information, documentation and fees have been filed by the applicant.

(c) The minimum, median and maximum processing times for a fictitious name permit from the time of receipt of the initial application until the Board makes a final decision on the application are:

- (1) Minimum -7 days
- (2) Median -30 days
- (3) Maximum -120 days

Authority cited: Section 3025, Business and Professions Code; and Section 15376, Government Code. Reference: Section 15376, Government Code.

ARTICLE 10 PRESCRIPTIONS

§1565. PRESCRIPTION STANDARDS: INFORMATION REQUIRED

(a) Any prescription or order by an optometrist comprising written specifications for ophthalmic lenses pursuant to an eye examination must contain the following minimal information: name, address, telephone number and license number of the issuing optometrist; his/her signature; issue date and expiration date; and patient's name.

Authority cited: Sections 3025 and 3025.5, Business and Professions Code. Reference: Sections 3025.5 and 3041, Business and Professions Code.

History

1. New section filed 2-21-89; operative 3-23-89 (Register 89, No. 10).

§1566. RELEASE OF PRESCRIPTIONS: NOTICE REQUIRED

At each office there shall be posted in a conspicuous place a notice which shall clearly state the legal requirements regarding the release of all corrective lens prescriptions and such notice shall at a minimum contain the following information:

CONSUMER NOTICE

Eye doctors are required to provide patients with a copy of their ophthalmic lens prescriptions as follows:

Spectacle prescriptions: Release upon completion of exam.

Contact lens prescriptions: Release upon completion of exam or upon completion of the fitting process.

Authority cited: Sections 3025, 3025.5 and 3090, Business and Professions Code. Reference: Sections 2541.2, 3025, 3025.5 and 3090, Business and Professions Code; and Title 16 CFR 315.3, 456.1 and 456.2.

History

1. New section filed 3-15-94; operative 4-14-94 (Register 94, No. 11).
2. Amendment of section and Note filed 3-10-2006; operative 4-9-2006 (Register 2006, No. 10).

§1566.1. CONSUMER INFORMATION

The "CONSUMER NOTICE" specified in Section 1566 shall also contain the following consumer information:

The practice of optometry in California is regulated by the Board of Optometry. The Board of Optometry receives and investigates all consumer complaints involving the practice of optometry. Complaints or grievances involving a California-licensed optometrist, should be directed to:

Board of Optometry

Department of Consumer Affairs

2420 Del Paso Road, Suite 255

Sacramento, CA 95834

Phone: 1-866-585-2666 or (916) 575-7170

Email: optometry@dca.ca.gov

Internet: www.optometry.ca.gov

Authority cited: Section 3025, Business and Professions Code. Reference: Section 3025.5, Business and Professions Code.

History

1. New section filed 8-12-99; operative 9-11-99 (Register 99, No. 33).
2. Amendment filed 3-10-2006; operative 4-9-2006 (Register 2006, No. 10).

ARTICLE 11 THERAPEUTIC PHARMACEUTICAL AGENTS

§1567. DEFINITIONS

As used in this Article:

- (a) "Infectious" means a type of lesion suspected to be caused by a pathogen.
- (b) "NBEO" is the acronym for the National Board of Examiners in Optometry.
- (c) "Peripheral Infectious Corneal Ulcers" means those infectious corneal ulcers limited to the area of the eye that lies outside the central 5mm diameter of the cornea.

(d) "Preceptorship service" means 65 hours of training in the diagnosis and treatment of ocular, systemic disease completed in no less than two months nor more than one year in one or more ophthalmologist's office(s) or optometric clinic(s). Preceptor's service shall be authorized by an accredited optometry school or college or recognized ophthalmological residency review committee in California. Preceptors shall be California-licensed ophthalmologists certified by the American Board of Medical Specialties and must be in good standing with the Medical Board of California.

(e) "Referral" means the primary responsibility for the treatment of a patient is transferred from the TPA optometrist to a consulting ophthalmologist.

(f) "Therapeutic Pharmaceutical Agents" includes mydriatics, cycloplegics, anesthetics, agents used for the reversal of mydriasis, topical lubricants, topical antiallergy agents, topical steroidal antiallergy agents, topical nonsteroidal and steroidal antiinflammatories, topical antibiotic agents, topical hyperosmotics, topical antiglaucoma agents (use pursuant to the certification process defined in Business and Professions Code section 3041, subdivision (f)), oral antihistaminines, prescription oral nonsteroidal antiinflammatory agents, oral antibiotics limited to tetracyclines, dicloxacillin, amoxicillin, amoxicillin with clavulanate, erythromycin, clarythromycin, cephalexin, cephadroxil, cefaclor, trimethoprim with sulfamethoxazole, ciprofloxacin, and azithromycin (use limited to the eyelid infection and chlamydial disease, topical antiviral medication and oral acyclovir) use specified in Business and Professions Code section 3041, subdivision (c)(12), non-controlled substance oral analgesics, codeine with compounds and hydrocodone with compounds (use limited to three days) and topical miotics for diagnostic purposes and nonprescription medications.

(g) "TMOD" is the acronym for the "Treatment and Management of Ocular Disease" examination administered by the National Board of Examiners in Optometry. Passage of this examination is mandatory for certain TPA certification applicants.

(h) "TPA" is the acronym for Therapeutic Pharmaceutical Agents.

(i) "TPA certified optometrist" means a California licensed optometrist who has met all of the requirements for certification set forth by the State Board of Optometry to use Therapeutic Pharmaceutical Agents in his or her optometric practice.

(j) "Treat" means the use of therapeutic pharmaceutical agents, as described in Business and Professions Code section 3041, subdivision (c), and the procedures described in subdivision (e).

(k) "Approval" means to certify a TPA certified optometrist to perform lacrimal irrigation and dilation of patients over the age of 12 years pursuant to Business and Professions Code section 3041, subdivision (e)(6).

Authority cited: Sections 3025, 3025.5 and 3041.2, Business and Professions Code. Reference: Sections 3027.5, 3041, 3041.1, 3041.3, 3059, 3096.5, 3108, 3109, 3152.5, 4033, 4036, 4051 and 4052, Business and Professions Code. Authority cited: Sections 3025, 3025.5 and 3041.2, Business and Professions Code. Reference: Sections 3027.5, 3041, 3041.1, 3041.3, 3059, 3096.5, 3108, 3109, 3152.5, 4033, 4036, 4051 and 4052, Business and Professions Code.

History

1. New article 11 (sections 1567-1570) and section filed 7-7-97; operative 8-6-97 (Register 97, No. 28).
2. Amendment of subsection (e) and new subsections (j)-(k) filed 12-20-2004; operative 1-19-2005 (Register 2004, No. 52).

§1568. THERAPEUTIC PHARMACEUTICAL AGENTS USAGE – PURPOSE AND REQUIREMENTS

Only those optometrists meeting the requirements of this Article may apply for TPA Certification to use Therapeutic Pharmaceutical Agents. The Application for TPA Certification (Form TPA-1 Rev. 4/96), which is hereby incorporated by reference, may be obtained from the Board's Headquarters office. Requirements for TPA certification are as follows:

(a) If the applicant is licensed to practice optometry in California and graduated from an accredited school of optometry prior to January 1, 1992:

(1) Completion of an 80-hour TPA didactic course provided either by the University of California at Berkeley School of Optometry or the Southern California College of Optometry or recognized ophthalmological residency review committee or at an accredited school or college located outside of California as provided in Section 1570 in this Article.

(2) Pass the examination given at the conclusion of the TPA course.

(3) Pass the TMOD component of the NBEO administered after July 1, 1992.

(4) Complete 20 hours of self directed study in the treatment and management of ocular, systemic disease.

(5) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(b) If the applicant is a licensed optometrist in California and graduated from an accredited school of optometry after January 1, 1992 but before January 1, 1996:

(1) Complete 20 hours of self directed study in the treatment and management of ocular, systemic disease.

(2) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(c) If the applicant is a graduate from an accredited school of optometry after January 1, 1996:

(1) Obtain a California optometrist license.

(2) Be certified by an accredited school of optometry that the applicant is competent in the diagnosis, treatment, and management of ocular, systemic disease.

(3) Be certified by an accredited school of optometry that the applicant has completed 10 hours of experience with an ophthalmologist.

(d) If the applicant is licensed outside California and graduated from an accredited school of optometry before January 1, 1992:

(1) Obtain a California optometrist license.

(2) Completion of an 80-hour TPA didactic course provided either by University of California at Berkeley School of Optometry or Southern California College of Optometry or recognized ophthalmological residency review committee or at an out-of-state school as provided in Section 1570 in this Article.

(3) Pass the examination given at the conclusion of the TPA course.

(4) Pass the TMOD component of the NBEO administered after July 1, 1992.

(5) Complete 20 hours of self directed study in the treatment and management of ocular, systemic disease.

(6) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(e) If the applicant is licensed outside California and graduated from an accredited school of optometry after January 1, 1992 but prior to January 1, 1996:

(1) Obtain a California optometrist license.

(2) Complete 20 hours of self directed study in the treatment and of management of ocular, systemic disease.

(3) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.

(f) If the applicant is licensed in a state outside of California, graduated from an accredited school of optometry prior to January 1, 1992 and has practiced in that state, or on a reservation or a facility supported and maintained by the United States government with a TPA license:

- (1) Obtain a California optometrist license.
- (2) Pass the TMOD component of the NBEO administered after July 1, 1992.
- (3) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.
- (g) If the applicant is licensed in a state outside of California, graduated from an accredited school of optometry after January 1, 1992 but before January 1, 1996 and has practiced in that state or on a reservation or a facility supported and maintained by the United States government with a TPA license:
 - (1) Complete 20 hours of self directed study in the treatment and of management of ocular, systemic disease.
 - (2) Complete a 65-hour preceptorship service as defined in Section 1567 in this Article.
- (h) All TPA certified optometrists pursuant to this Article must complete 50 hours of continuing education in order to renew licensure. Thirty-five of the required hours shall be in the diagnosis, treatment and management of ocular, and systemic disease consistent with Business and Professions Code section 3059, subdivision (f).
- (i) If the applicant is licensed in a state outside of California and requests that the 65-hour preceptorship service requirement contained in subdivisions (e), (f) and (g) be waived based on their optometric practice experience using TPA in another state, the Board, as authorized under Business and Professions Code Section 3041.3(d)(1), shall deem the experience as equivalent to the 65-hour preceptorship service required in California provided the following conditions are met:
 1. Applicant is licensed in good standing in their state of licensure.
 2. Applicant has graduated from an accredited school of optometry before January 1, 1996.
 3. Applicant has met the requirements to treat with therapeutic pharmaceutical agents in their state of licensure.
 4. Applicant has been practicing optometry in their state of licensure using therapeutic pharmaceutical agents for 5 continuous years immediately preceding the submission of their application.

Authority cited: Sections 3025 and 3041.2, Business and Professions Code. Reference: Sections 3041.3 and 3059, Business and Professions Code.

History

1. New section filed 7-7-97; operative 8-6-97 (Register 97, No. 28).
2. Amendment of subsection (h) filed 12-20-2004; operative 1-19-2005 (Register 2004, No. 52).
3. New subsection (i) and amendment of Note filed 7-3-2008; operative 7-3-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 27).

§1569. SCOPE OF PRACTICE

Authority cited: Sections 3025 and 3041.2, Business and Professions Code. Reference: Sections 2266, 3027.5, 3041, 3041.1, 3108 and 3109, Business and Professions Code. Authority cited: Sections 3025 and 3041.2, Business and Professions Code. Reference: Sections 2266, 3027.5, 3041, 3041.1, 3108 and 3109, Business and Professions Code.

History

1. New section filed 7-7-97; operative 8-6-97 (Register 97, No. 28).
2. Amendment filed 12-20-2004; operative 1-19-2005 (Register 2004, No. 52).
3. Repealer filed 7-21-2010; operative 8-20-2010 (Register 2010, No. 30).

§1570. EDUCATIONAL EQUIVALENCY

Didactic courses at the following schools and colleges of optometry shall be considered equivalent to those given in California:

- (a) University of Alabama at Birmingham School of Optometry
Birmingham, Alabama
- (b) University of Waterloo School of Optometry
Ontario, Canada
- (c) Nova Southeastern University College of Optometry
North Miami Beach, Florida
- (d) Illinois College of Optometry
Chicago, IL
- (e) Indiana University School of Optometry
Bloomington, Indiana
- (f) New England College of Optometry
Boston, Massachusetts
- (g) Ferris State University College of Optometry
Big Rapids, Michigan
- (h) University of Missouri School of Optometry
St. Louis, Missouri
- (i) State University of New York State College of Optometry
New York, New York
- (j) The Ohio State University College of Optometry
Columbus, Ohio
- (k) Northeastern State University College of Optometry
Tahlequah, Oklahoma
- (l) Pacific University College of Optometry
Forest Grove, Oregon
- (m) Pennsylvania College of Optometry
Philadelphia, Pennsylvania
- (n) Southern College of Optometry
Memphis, Tennessee
- (o) University of Houston College of Optometry
Houston, Texas

Authority cited: Sections 3025 and 3041.2, Business and Professions Code. Reference: Sections 3041.1 and 3041.3, Business and Professions Code.

History

1. New section filed 7-7-97; operative 8-6-97 (Register 97, No. 28).

ARTICLE 12 ENFORCEMENT

§1575. DISCIPLINARY GUIDELINES

In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the Board of Optometry shall consider the disciplinary guidelines entitled "Disciplinary Guidelines and Model Disciplinary Orders" (DG-3, 5-99) which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation -for example: the presence of mitigating factors; the age of the case; evidentiary problems.

Authority cited: Sections 3025 and 3090, Business and Professions Code; and Sections 11400.20 and 11420.21, Government Code. Reference: Section 3090, Business and Professions Code; and Sections 11400.20, 11400.21 and 11425.50(e), Government Code.

History

1. New article 12 (section 1575) and section filed 7-30-97; operative 7-30-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 31).
2. Amendment of "Disciplinary Guidelines and Model Disciplinary Orders" (incorporated by reference) and amendment of section filed 4-25-2001; operative 5-25-2001 (Register 2001, No. 17).

ARTICLE 12.5 CITATIONS AND FINES

§1576. CITATIONS – CONTENT AND SERVICE

(a) The executive officer of the board, or his/her designee, may issue a citation which may contain an administrative fine and/or order of abatement against a licensee for any violation of law which would be grounds for discipline or for violation of any regulation adopted by the board pursuant hereto.

(b) Each citation shall be in writing and shall describe, with particularity, the nature and facts of each violation specified in the citation, including a reference to the statute(s) or regulation(s) alleged to have been violated.

(c) The citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable time for abatement of the violation, or both.

(d) The citation shall inform the cited individual of the right to an informal citation conference concerning the matter and the right to an administrative hearing.

(e) The citation shall be served upon the individual personally, or by certified mail in accordance with the provisions of Section 11505(c) of the Government Code.

Authority cited: Sections 125.9, 3025 and 3135, Business and Professions Code. Reference: Sections 125.9 and 3135, Business and Professions Code.

History

1. New article 12.5 (sections 1576-1581) and section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

§1577. CITATIONS FOR UNLICENSED PERSONS

The executive officer of the board is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines against persons, as defined in Section 125.9 of the Code, who are performing or who have performed services for which a license is required under the statutes and regulations enforced by the Board of Optometry. Each citation issued for unlicensed activity shall be issued in accordance with Section 1578 of these regulations. The provisions of section 1578 shall apply to the issuance of citations for unlicensed activity under this section. The sanction authorized under this section shall be separate from and in addition to any other civil or criminal remedies.

Authority cited: Sections 125.9, 148, 3025 and 3135, Business and Professions Code. Reference: Sections 125.9 and 148, Business and Professions Code.

History

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

§1578. CITATION FACTORS

In assessing an administrative fine or issuing an order of abatement, the executive officer of the board shall give due consideration to the following factors:

- (a) The gravity of the violation. If the violation is of such a nature and/or severity that revocation of the license or restrictions on the license are necessary in order to ensure consumer protection, a citation will not be issued.
- (b) The good or bad faith exhibited by the cited person.
- (c) The history of previous violations of the same or similar nature.
- (d) Evidence that the violation was or was not willful.
- (e) The extent to which the cited person has cooperated with the board's investigation.
- (f) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by the violation.
- (g) Any other factors as justice may require.

Authority cited: Sections 125.9 and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

History

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

§1579. CITABLE OFFENSES

- (a) The executive officer of the board shall assess fines for citable offenses listed in this section, provided however, in no case shall the total fines exceed \$2,500 for each violation. The executive officer shall not impose any duplicate fines for the same violation.
- (b) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face.
- (c) Class "A" citations involve a person who has engaged in the practice of optometry without a current and valid license, including, but not limited to, acting in the capacity of an optometrist or performing or controlling the practice of optometry as defined in Business and Professions Code section 3041.

A class "A" citation is subject to an administrative fine in an amount not less than one thousand five hundred dollars (\$1,500) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(d) Class "B" citations involve an optometrist who has either:

(1) Violated any statute or regulation which would be grounds for discipline by the Board that has caused non-physical financial harm to a person, or

(2) Has committed a violation that are grounds for issuance of a Class "C" citation and has been issued one or more prior Class "C" citations within the three (3) years immediately preceding the issuance of the citation.

A class "B" citation is subject to an administrative fine in an amount not less than five hundred dollars (\$500) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(e) Class "C" citations involve an optometrist who has violated any statute or regulation which would be grounds for discipline by the Board that did not cause physical or financial harm to a person.

A class "C" citation is subject to an administrative fine in an amount not less than two hundred fifty dollars (\$250) and not to exceed two thousand five hundred dollars (\$2,500) for each violation.

(f) Notwithstanding the administrative fine amounts specified in subsections (c), (d), and (e), a citation may include a fine between two thousand five hundred and one dollars (\$2,501) and five thousand dollars (\$5,000) if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person;

(2) The cited person has a history of two or more prior citations of the same or similar violations;

(3) The citation involves multiple violations that demonstrate a willful disregard of the law;

(4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person;

(5) The citation involves fraudulent billing submitted to an insurance company, or Medi-Cal or Medi-Care programs;

(g) The sanctions authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

Authority cited: Sections 125.9, 148, 2545 and 3025, Business and Professions Code. Reference: Sections 125.9, 148 and 2545, Business and Professions Code.

History

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

2. Amendment of section and Note filed 9-26-2006; operative 10-26-2006 (Register 2006, No. 39).

§1580. COMPLIANCE WITH CITATION/ORDER OF ABATEMENT

(a) If the cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, the cited person may request an extension of time in which to make the correction from the executive officer of the board. Such a request shall be in writing and shall be made within the time set forth for the abatement.

(b) If a citation or order of abatement is not contested, or if the citation is contested and the cited person does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial action being taken against the cited person.

(d) If a fine is not paid after a citation has become final, the fine shall be added to the cited person's license or registration renewal fee. A license or registration shall not be renewed without payment of the renewal fee and fine.

Authority cited: Sections 125.9 and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

History

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).

§1581. CONTESTED CITATIONS

(a) If a cited person wishes to contest the citation, assessment of the administrative fine, or order of abatement, the cited person shall, within thirty (30) days after service of the citation, file in writing a request for an administrative hearing to the executive officer regarding the acts charged in the citation, as provided for in subdivision (b)(4) of Section 125.9 of the Code.

(b) In addition to, or instead of, requesting an administrative hearing, as provided for in subdivision (b)(4) of Section 125.9 of the Code, the cited person may, within thirty (30) days after service of the citation, contest the citation by submitting a written request for an informal citation conference to the executive officer or his/her designee.

(c) Upon receipt of a written request for an informal citation conference, the executive officer or his/her designee shall, within sixty (60) days, hold an informal citation conference with the cited person. The cited person may be accompanied and represented at the informal citation conference by an attorney or other authorized representative.

(d) If an informal citation conference is held, the request for an administrative hearing shall be deemed to be withdrawn and the executive officer or his/her designee may affirm, modify or dismiss the citation, including any fine levied or order of abatement issued, at the conclusion of the informal citation conference. If affirmed or modified, the citation originally issued shall be considered withdrawn and an affirmed or modified citation, including reason for the decision, shall be issued. The affirmed or modified citation shall be mailed to the cited person and his/her legal counsel, if any, within ten (10) days from the date of the informal citation conference.

(e) If a cited person wishes to contest an affirmed or modified citation, the person shall, within thirty (30) days of his or her notification, file in writing a request for an administrative hearing to the executive officer regarding the acts charged in the affirmed or modified citation, in accordance with subdivision (b)(4) of Section 125.9 of the Code.

Authority cited: Sections 125.0 and 3025, Business and Professions Code. Reference: Section 125.9, Business and Professions Code.

History

1. New section filed 8-17-99; operative 9-16-99 (Register 99, No. 34).